



Indiana Department of Environmental Management
Office of Air Quality
Rule Fact Sheet
(August 1, 2001)

**Developments of Amendments to Rules Concerning References to the
Code of Federal Regulations (CFR)
LSA Document #01-215**

Overview

This rulemaking amends 326 IAC 1-1-3, concerning references to the Code of Federal Regulations (CFR), to update any references to the CFR in Title 326 to mean the July 1, 2000, edition. IDEM also has developed draft rule language for amendments to Title 326 to change any incorporation by reference of the Federal Register (FR) to its CFR citation published in the July 1, 2000 edition of the CFR. This rulemaking includes draft language for new rules 326 IAC 1-1-3.5 and 326 IAC 1-2-20.5, establishing references to and definition of the Compilation of Air Pollution Emission Factors AP-42 and Supplements.

CITATIONS AFFECTED: 326 IAC 1-1-3; 326 IAC 1-1-3.5; 326 IAC 1-2-20.5; 326 IAC 1-2-48; 326 IAC 1-3-4; 326 IAC 1-4-1; 326 IAC 2-1.1-7; 326 IAC 2-4.1-1; 326 IAC 2-5.1-3; 326 IAC 2-6.1-3; 326 IAC 2-6.1-6; 326 IAC 2-7-10.5; 326 IAC 2-7-19; 326 IAC 2-8-10; 326 IAC 2-8-11.1; 326 IAC 2-9-4; 326 IAC 8-8-2; 326 IAC 8-8-3; 326 IAC 8-8.1-2; 326 IAC 8-8.1-3; 326 IAC 11-6-1; 326 IAC 11-6-2; 326 IAC 11-6-4; 326 IAC 11-6-5; 326 IAC 11-6-6; 326 IAC 11-6-7; 326 IAC 11-6-8; 326 IAC 11-7-2; 326 IAC 11-7-4; 326 IAC 11-7-5; 326 IAC 11-7-6; 326 IAC 11-7-7; 326 IAC 11-7-8; 326 IAC 11-7-9; 326 IAC 12-1-2; 326 IAC 12-1-3; 326 IAC 13-1.1-17.1; 326 IAC 14-2-1; 326 IAC 17.1-1-2; 326 IAC 19-2-1; 326 IAC 19-3-2; 326 IAC 19-3-3; 326 IAC 19-3-5; 326 IAC 20-1-1; 326 IAC 20-1-3; 326 IAC 20-2-1; 326 IAC 20-3-1; 326 IAC 20-4-1; 326 IAC 20-5-1; 326 IAC 20-6-1; 326 IAC 20-7-1; 326 IAC 20-8-1; 326 IAC 20-9-1; 326 IAC 20-10-1; 326 IAC 20-11-1; 326 IAC 20-12-

1; 326 IAC 20-13-1; 326 IAC 20-13-2; 326 IAC 20-13-4; 326 IAC 20-13-5; 326 IAC 20-13-6; 326 IAC 20-13-7; 326 IAC 20-13-8; 326 IAC 20-14-1; 326 IAC 20-15-1; 326 IAC 20-16-1; 326 IAC 20-17-1; 326 IAC 20-18-1; 326 IAC 20-19-1; 326 IAC 20-20-1; 326 IAC 20-21-1; 326 IAC 20-22-1; 326 IAC 20-23-1; 326 IAC 20-24-1; 326 IAC 20-26-1; 326 IAC 20-30-1; 326 IAC 20-31-1; 326 IAC 20-32-1; 326 IAC 20-33-1; 326 IAC 20-35-1; 326 IAC 20-36-1; 326 IAC 20-37-1; 326 IAC 20-38-1; 326 IAC 20-39-1; 326 IAC 20-40-1; 326 IAC 20-41-1; 326 IAC 20-42-1; 326 IAC 20-43-1; 326 IAC 20-44-1; 326 IAC 20-45-1; 326 IAC 20-46-1; 326 IAC 20-47-1; 326 IAC 21-1-1; 326 IAC 23-2-4; 326 IAC 23-2-7.

Affected Persons

This rulemaking affects sources complying with the Indiana Administrative Code (IAC).

Potential Cost

Any economic impact of this rulemaking results from revisions to federal rules that will be included in the IAC as a result of this rulemaking. This state rulemaking will not create costs above those created by the federal rules.

Description

Many of Indiana's air quality standards, sampling procedures, monitoring requirements, and various compliance methodologies are based on federal requirements. During the development of rules under Title 326 of the Indiana Administrative Code (IAC), it is often more efficient to incorporate specific portions of the CFR rather than to reprint them in full. Incorporation by reference ensures that state rules will not be interpreted in such a way

as to conflict with federal law and national policy and allows the state to use the resources of the federal system instead of expending its own rulemaking resources in what would otherwise be an unnecessary duplication of rulemaking effort. By annually updating the reference to the CFR, IDEM is able to incorporate by reference the latest version of the parts of the CFR, already incorporated into the air rules, with the exception of those most recently published in the FR.

326 IAC 1-1-3, References to the Code of Federal Regulations, indicates the yearly edition of the CFR that is applicable to rules that have been incorporated by reference throughout Title 326, unless a different edition is specified in a given rule.

The 2000 edition of the CFR is a codification of the general and permanent rules published in the FR as of June 30, 2000. IDEM incorporates by reference citations from Titles 29 and 40.

References to the FR appear throughout Title 326. If the state incorporates a federal regulation before it is codified in the CFR, then the FR document is incorporated into state rules instead of the CFR. The current version of the CFR referenced in Indiana's air quality rules is dated July 1, 1998. Since that date, a number of new federal rules were promulgated that were incorporated and referenced in the state rules using their FR citation. This CFR update to the July 1, 2000 edition will ensure that the state rules reference the federal rules using their CFR citation.

Compilation of Air Pollution Emission Factors (AP-42) is a document issued by U.S. EPA that is currently referenced in Title 326. Examples of references to AP-42 include 326 IAC 2-6-4, 326 IAC 6-1-10.1, 326 IAC 6-1-11.1, and 326 IAC 8-9-3. This rulemaking formally incorporates by reference these current references. This rulemaking also updates AP-42 to the most recent version and will allow sources to use the most recent version of AP-42.

AP-42 is a fundamental tool for air quality

management and is used for developing emission control strategies, determining applicability of permitting and control programs, ascertaining the effects of sources and appropriate mitigation strategies, and a number of related applications. The Fifth Edition of AP-42, Volume I, contains information on over 200 stationary source categories. This information includes brief descriptions of processes used, potential sources of air emissions from the processes and common methods used to control these air emissions. Methodologies for estimating the quantity of air pollutant emissions are provided by the emission factors.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rules are consistent with federal rules.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Gayla Killough, Rule Development Section, Office of Air Quality, (317) 234-1377 or (800) 451-6027, press 0, and ask for extension 4-1377 (in Indiana).